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On this view, the creditor's intention in accepting the check would seem immaterial, though the English law would regard it as decisive. For if he intended to accept on the terms offered, his claim is at an end; while if he did not so intend and yet cashed the check, it should not be open to him to qualify or explain an act consistent only with such intention. In particular instances it may well be a troublesome question whether the remittance was in fact conditional. But when once the condition is established, it should follow, not as a possible inference of fact, but as a necessary conclusion of law that acceptance of such remittance is subject to the condition attached.

PROVER AGAINST A PURCHASER FROM A CONVERTER. — There has been conspicuous lack of harmony in the decisions as to whether a pledgee or purchaser from a converter is himself guilty of a conversion before demand and refusal. The question assumes practical importance whenever action is brought before demand and also when, though demand has been made, the statutory time has elapsed since the fraudulent sale or pledge. The English law on the subject is briefly summarized in a recent article. *A Point in the Law of Conversion*, Anon., 46 Sol. J. 24 (Nov. 9, 1901).

As far back as Lord Ellenborough's time, in 1805, it was laid down unqualifiedly, though by way of *dictum*, that one who takes property "by assignment from another who has no authority to dispose of it" commits a conversion. *M'Combie v. Davies*, 6 East 538. On this view, which seems correct, there is an immediate conversion by the purchaser or pledgee, before demand and refusal, and it matters not whether his conduct is fraudulent or innocent. A later decision, however, qualifies the broad doctrine of *M'Combie v. Davies*, *supra*, holding that an innocent pledgee of title deeds is not guilty of a conversion until detention after demand. *Spackman v. Foster*, 11 Q. B. D. 99. The author submits, rightly, that the doctrine of *Spackman v. Foster*, *supra*, is indefensible on principle and unfortunate in its results. If the essence of conversion is the exercise of a dominion inconsistent with the rights of the owner, it is hard to see how demand and refusal can be necessary; or, if it is unnecessary in the case of a fraudulent pledgee or purchaser, how it can become necessary simply because the infringement on another's rights is unintentional. For whether one's motive be honest or fraudulent, by accepting the converted property in sale or pledge he does an act entirely at variance with the exclusive control of the owner. The view of *Spackman v. Foster*, *supra*, is doubtless due in part to a not unnatural desire to shield from immediate liability one whose conduct is morally blameless. But such assumed kindness operates in one respect to the disadvantage of its recipient. It fails to recognize the desirability of quieting possession. For if there is no conversion until demand and refusal, the statute of limitations cannot run in his favor till then; while the stricter and more logical doctrine would allow it to run from the outset.

The sounder view, namely, that demand is not necessary, represents perhaps the weight of American authority. *Riley v. Boston, etc., Co.*, 11 Cush. (Mass.) 11. See also CL. & L., TORTS, 2d ed., 214, and an excellent article, *Conversion by Purchase*, by Nathan Newmark, 15 Am. L. Rev. 363, 376-378. The opposite view, however, is strongly supported. *Rawley v. Brown*, 18 Hun (N. Y.) 456. See also 6 So. L. Rev., N. S., 822, 828.